UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
NEW YORK, NY

ILANAGANDASSA RAJAKARUNA HERATH MUDIYANSE
A205-438-548,
Plaintiff,

v.

Civil Action No. ______

JEFFERSON B. SESSIONS III
Attorney General of the United States;
John F. Kelly, Secretary,
Department of Homeland Security;
Phyllis Coven, District Director,
U.S. Citizenship and Immigration Services,
New York;

PLAINTIFF'S COMPLAINT FOR DECLARATORY RELIEF AND FOR A WRIT IN THE NATURE OF A MANDAMUS TO INSTRUCT DEFENDANT TO ADJUDICATE THE REFUGEE RELATIVE PETITIONS OF THE PLAINTIFF.

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New York;

COMPLAINT FOR WRIT OF MANDAMUS

To the Honorable Judges of Said Court:

Plaintiff, Ilanagandassa Rajakaruna Herath Mudiyanse, through undersigned counsel, alleges as follows:

INTRODUCTION

1. This action is triggered by the failure by the District Director of the U.S. Citizenship and Immigration Services ("US CIS"), New York, NY to adjudicate the Refugee Relative Petitions of Mr. Ilanagandassa Rajakaruna Herath Mudiyanse in accordance with the statutory right of the Immigration and Nationality Act ("INA").

2. The purpose of this action is to seek an order from this Honorable Court compelling the USCIS [Defendants] to adjudicate his Refugee Relative

claims in accordance with the terms of the INA.

3. The Plaintiff therefore seeks declaratory and mandamus relief against the Defendants' failure to move on the matter filed by the Plaintiff in a timely and appropriate manner in accordance with his statutory rights pursuant to the INA.

JURISDICTION

4. This is a civil action brought pursuant to 28 U.S.C. §1331, and 28 U.S.C. §1361, to redress the deprivation of rights, privileges and immunities secured to Plaintiff to compel Defendants to perform a duty Defendants owe to Plaintiff. Jurisdiction is also conferred by 5 U.S.C. §701.

5. This action is brought to compel Defendants and those acting under them to take action on the Applications of Refugee Relative Petition To allow the Plaintiff's wife and children to become derivative asylees.

PLAINTIFF

6. Plaintiff, Ilanagandassa Rajakaruna Herath Mudiyanse resides at 399 Walker Street Staten Island, NY 10303.

DEFENDANTS

7. Defendants Loretta Lynch, the Attorney General of the United States, John F. Kelly, Secretary of the Department of Homeland Security, and Phyllis Coven, Acting District Director, U.S. Citizenship and Immigration Services, New York, are charged by law with the statutory obligation to adjudicate the Application CI-7301 for Refugee Relative Petition.

8. Plaintiff is entitled to have his Applications adjudicated.

VENUE

9. Venue is proper under 28 USC §1391(e) because the Plaintiff resides in this district.

FACTS

10. The Plaintiff is a native and citizen of Sri Lanka.

11. The Plaintiff was granted asylum by an Immigration Judged on June 18, 2012. [Please see Exhibit A]

12. The Plaintiff applied for Refugee Relative Petition for his spouse Geetha S. Herath on December 5,2012. [Please see Exhibit B]

13. The Plaintiff applied for Refugee Relative Petition for his children namely Govindu K. Herath, Chandu M. Herath and Chavini V. Herath on December 5, 2012. [Please see Exhibit C]

14. The Plaintiff contacted the USCIS with respect to the status of his petitions for Refugee Relative Petition on 08/11/2015.

15. The USCIS sent responses dated September 16, 2015 stating that "We have received your service request and researched the status of your case. Our system indicates that your case is currently under extended review and this has caused a delay in processing time. We do not require any actions from you at this time." [Please see Exhibit D]

16. Defendants are in violation of the Administrative Procedure Act 5 U.S.C. Sec 555(b), 701 are unlawfully withholding and unreasonably delaying action on Plaintiff's applications and have failed to carry out the adjudicative functions delegated to them by law with regard to Plaintiff's case.

CLAIMS

1. Defendants have willfully and unreasonably delayed in, and have refused to adjudicate Plaintiff's Petitions for Refugee Relative Petition (I-730), thereby depriving the Plaintiff of being united with his wife and children as derivative asylees.

2. Defendants owe Plaintiff a duty to adjudicate his petitions, and have

unreasonably failed to perform that duty;

3. Plaintiff has exhausted all and any administrative remedies that may exist.

WHEREFORE, Plaintiff prays that the Court:

1. Compel Defendants and those acting under them to perform their duty to adjudicate the Refugee Relative Petitions filed by the Plaintiff;

2. Grant such other and further relief as this Court deems proper under the circumstances; and

3. Grant Attorney's fees and costs of Court to Plaintiffs under the Equal Access to Justice Act.

Respectfully submitted,

/s/ Visuvanathan Rudrakumaran

Attorney for the Plaintiff
Visuvanathan Rudrakumaran, Esq.
Law Office of Visuvanathan Rudrakumaran
875 Avenue of the Americas, Suite 906
New York, NY 10001
Phone: (212) 290-2925, Fax:(212) 290-2303

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